

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CHEROKEE, IOWA, 2005, BY AMENDING PROVISIONS PERTAINING TO ZONING REGULATIONS AND REFERENCES TO THE AIRPORT

BE IT ENACTED by the City Council of the City of Cherokee, Iowa:

SECTION 1. SECTION MODIFIED. Chapter 165 is amended and the following adopted in lieu thereof:

165.04 DEFINITIONS, subsection 3. "Airport" means the Cherokee County Regional Airport.

165.23 AIRSPACE ZONING, Subsection 1, Airport Zones and Airspace Height Limitations.

(A) "Municipal Airport Height Zoning Map" shall be replaced with "Airport Height Zoning Map".

(B) "Municipal Airport Height Zoning Map" shall be replaced with "Airport Height Zoning Map".

(C) "Municipal Airport Height Zoning Map" shall be replaced with "Airport Height Zoning Map".

(D) "Municipal Airport Height Zoning Map" shall be replaced with "Airport Height Zoning Map".

165.23 AIRSPACE ZONING, Subsection 2, Use Restrictions.

(A) "Municipal Airport" shall be replaced with "Cherokee County Regional Airport".

(B) "Municipal Airport" shall be replaced with "Cherokee County Regional Airport".

165.23 AIRSPACE ZONING, Subsection 4, Variances. "Municipal Airport Commission" shall be replaced with "Cherokee Aviation Authority Board".

165.23 AIRSPACE ZONING, Subsection 6, Administrative Agency. "Airport Commission" shall be replaced with "Cherokee Aviation Authority Board".

Editor's Note, page 965, "Municipal Airport Zoning Map" shall be replaced with "Airport Zoning Map".

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this 24th day of January, 2006.


Dennis Henrich – Mayor

ATTEST:


City Clerk-Treasurer

A. Fences, walls and foliage which constitutes a hazard by virtue of impairing sight distances at a curve or intersection shall be made conforming within one (1) calendar year.

B. Billboards and Signs. (Repealed by Ordinance No. 440 - Dec. 01 Supp.)

C. All provisions in business and industrial zones of this Code setting forth specifications for the operation of a business or industry involving fencing or shielding shall be complied within one (1) calendar year.

D. Nonconforming open space storage operations, such as truck parking, automobile wrecking, salvage material storage and similar uses not involving structures or buildings, shall be made conforming within two (2) calendar years.

165.23. AIRSPACE ZONING.[†]

1. Airport Zones and Airspace Height Limitations. In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Municipal Airport Height Zoning Map. A structure located in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

A. Horizontal Zone. The land lying under a horizontal plane one hundred fifty (150) feet above the established elevations, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of runways eighteen (18) and thirty-six (36) and connecting the adjacent arcs by lines tangent to those arcs. No structure shall exceed one hundred and fifty (150) feet above the established airport elevation in the horizontal zone, as depicted on the Municipal Airport Height Zoning Map.

B. Conical Zone. The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet to one (1) for a horizontal distance of four thousand (4,000) feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Municipal Airport Height Zoning Map.

[†] See Editor's Note following this chapter for ordinances amending the Municipal Airport Zoning Map.

C. Approach Zone. The land lying under the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

(Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

(1) Visual Other Than Utility Runway and Non-precision Instrument Runway. The inner edge of the approach surface is:

- a. Fifteen hundred (1500) feet wide for Runway 18.
- b. Two thousand (2,000) feet for Runway 36.

(2) The approach zone extends for a horizontal distance of 5,000 feet at a slope of 20 to 1 for Runways 18-36.

No structure shall exceed the approach surface to any runway, as depicted on the Municipal Airport Height Zoning Map.

D. Transitional Zone. The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of the approach surfaces. No structures shall exceed the transitional surface, as depicted on the Municipal Airport Height Zoning Map.

E. Increase in Elevation of Structures. No structure shall be erected in the County that raises the published minimum descent altitude for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any Federal airway in the County.

2. Use Restrictions. Notwithstanding any other provisions of subsection 1, no use may be made of land or water within the City or County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

A. Lighting. All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or

dangerous to aircraft operating from the Municipal Airport or in the vicinity thereof.

B. Visual Hazards. No operation from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of the Municipal Airport.

C. Electronic Interference. No operation from any use in the City or County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

3. Lighting. Notwithstanding the provisions of subsection 2, the owner of any structure over two hundred (200) feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure constructed after the effective date of this section (October 14, 1980) and exceeding nine hundred forty-nine (949) feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1D and amendments. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City or County at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

4. Variances. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property in violation of any section of this chapter, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to Municipal Airport Commission for an opinion as to the aeronautical effects of such a variance. If the Municipal Airport Commission does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the board may make its decision to grant or deny the variance.

5. Board of Adjustment. The Council and Cherokee County Board of Supervisors hereby appoint the Board of Adjustment of the City to have and exercise the same powers and duties pursuant to the purposes of these regulations in those areas where said Board may exercise said powers and duties as defined elsewhere in this Zoning Code and the Board of Adjustment of the County shall have the same powers and duties pursuant to the purposes of these regulations by the Cherokee

County Zoning Regulations in those areas where said Board may exercise said powers and duties as defined in said County Zoning Regulations.

A. Vote On Variations Or Orders. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant, on any matter upon which it is required to pass under this section, or to effect variations of this section.

B. Judicial Review. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the court of record as provided in the Code of Iowa, Section 414.15.

6. Administrative Agency. It is the duty of the Airport Commission to administer the regulations prescribed herein. Applications for permits and variances shall be made to the appropriate zoning officer upon a form furnished by the City. Applications required by this chapter to be submitted to the Airport Commission shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the zoning officer.

7. Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this section and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

8. Penalties. Each violation of this section or of any regulation, order, or ruling promulgated hereunder shall constitute a simple misdemeanor, and each day a violation continues to exist shall constitute a separate offense.

165.24 PATIOS. Patios shall be allowed in all districts and no building permit shall be required therefor except in cases where the patio deck height is more than two (2) feet above ground level and where the patio intrudes into any front yard, side yard or rear yard setback requirement.